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Commonwealth of Massachusetts

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RELATING TO

FORESTRY

AND THE SUPPRESSION OF THE

Gypsy and Brown Tail Moths



BY

F. W. RANE, STATE FORESTER

ROOM 1009, 6 BEACON ST., BOSTON, MASS., U. S. A.

The Commonwealth of Massachusetts.

LAWS RELATING TO FORESTRY

AND THE

SUPPRESSION OF THE GYPSY AND
BROWN-TAIL MOTHS.

By F. W. RANE, *State Forester*,
Room 1009, 6 Beacon Street, Boston, Mass., U. S. A.

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TO MASSACHUSETTS CITIZENS.

Realizing the rapidly increasing and enthusiastic interest on the part of the citizens of Massachusetts in everything pertaining to forestry, and in order to meet the constantly growing demand for knowledge of the laws relating to this important subject, the State Forester has compiled in this small booklet all the legislative enactments up to and including the year 1910. Forestry work in Massachusetts is just assuming large proportions and the outlook for the future is exceedingly bright. To care for our forest lands and to reforest the thousands of acres now bare and unproductive is the proposed work that will bring greater results and add more to our wealth than any other effort ever made in our State. There is great need of co-operation in order to obtain desired results. If each town will do its full duty in seeing that a thoroughly competent,

honest and public-spirited forest warden is appointed, and then give him due encouragement through financial assistance and otherwise, we are sure to make satisfactory progress.

The State Forester's office is headquarters for a progressive forestry movement, and stands in readiness not only to assist the town forest wardens in outlining their work, but to answer the inquiries of all Massachusetts citizens. The State also has made provision (1904, chapter 409, section 2) to give aid and advice, upon request, to individuals having forest lands. The State Forester is giving as much time as practicable to the educational feature, and besides is publishing bulletins and other literature, as fire laws, etc. He delivers lectures and talks before all organizations likely to be interested in promoting forestry.

The State Forester particularly desires to call the attention of forest wardens and selectmen in towns with a valuation of less than \$1,500,000 to chapter 398, Acts of 1910, which allows him to reimburse such towns 50 per cent. of the cost of forest fire-fighting apparatus.

This book also contains the laws under which the work of suppressing the gypsy and brown-tail moths is carried on throughout the State, and should be studied carefully by all our citizens in order that they may become familiar with their duties and responsibilities concerning this important work.

F. W. RANE,
State Forester.

ROOM 1009, 6 BEACON STREET, BOSTON, MASS.

"A tree is one of nature's words, a word of peace to
man;

A word that tells of central strength from whence
all things began;

A word to preach tranquillity to all our restless clan.

"Ah, bare must be the shadeless ways, and bleak
the path must be

Of him who, having open eyes, has never learned to
see,

And so has never learned to love the beauty of a
tree.

"Who loves a tree, he loves the life that springs in
star and clod,

He loves the love that gilds the clouds, and greens
the April sod;

He loves the Wide Beneficence; his soul takes hold
on God."

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MASSACHUSETTS FOREST LAWS.¹

I.

The State Forester.

1904, 409, as amended, 1907, 473, sec. 1, and 1909, 263. The governor, with the consent of the council, shall appoint an officer to be known as the state forester, and shall determine his salary. He shall be a trained forester who has had a technical education. He shall be ex officio a member of the state board of agriculture. He shall act for the commonwealth in suppressing the gypsy and brown-tail moths as public nuisances. The governor may, with the consent of the council, remove the state forester at any time for

¹ Laws relative to trees in the highways, streets, parks and forests that border into the public thoroughfares are not included. While these laws are closely associated with and in some instances become forest laws it has been thought best to clearly designate them as the tree warden acts. See the so-called "tree warden law," Acts of 1899, chap. 330; R. L., chap. 53, secs. 6 to 16.

such cause as he shall deem sufficient. In case of the death, removal or resignation of the state forester the governor shall forthwith appoint a successor. The office of superintendent for suppressing the gypsy and brown-tail moths is hereby abolished. All the powers, rights, duties and liabilities of the said superintendent are hereby transferred to the state forester. No existing contracts, proceedings or liabilities shall be affected hereby, but the state forester shall in all respects and for all purposes be the lawful successor of the superintendent for suppressing the gypsy and brown-tail moths.

1904, 409, sec. 2. It shall be the duty of the state forester to promote the perpetuation, extension and proper management of the forest lands of the commonwealth, both public and private. He may upon suitable request give to any person owning or controlling forest lands aid or advice in the management thereof. He shall give such a course of instruction to the students of the Massachusetts Agricultural College on the art and science of forestry as may be arranged for by the trustees of the college and the forester; and shall perform such other

duties from time to time as may be imposed upon him by the governor and council. The state forester shall have the right to publish the particulars and results of any examination or investigation made by him or his assistants as to any lands within the commonwealth, and the advice given to any person who has applied for his aid or advice. Any recipient of such aid or advice shall be liable to the state forester for the necessary expenses of travel and subsistence incurred by him or his assistants. The state forester shall account for moneys received under this clause according to the provision of section five.

1904, 409, sec. 3. The state forester may establish and maintain a nursery for the propagation of forest tree seedlings on such lands as the trustees of the Massachusetts Agricultural College may set aside for that purpose on the college grounds at Amherst. Seedlings from this nursery shall be furnished to the commonwealth without expense for use upon reservations set aside for the propagation of forest growth for other than park purposes. He may distribute seeds and seedlings to landowners, citizens of the

commonwealth, under such conditions and restrictions as he may, subject to the approval of the governor and council, deem advisable.

1904, 409, sec. 4. The state forester is hereby empowered, subject to the approval of the governor and council, to hire such assistants as he may need in the performance of his duties, and to fix their salaries.

1904, 409, sec. 5. The state forester shall annually, on or before the thirty-first day of December, make a written report to the general court of his proceedings for the year ending on the thirty-first day of December, together with such recommendations as he may deem proper, and with a detailed statement of the receipts and expenditures incident to the administration of his office. His report shall be printed in the report of the state board of agriculture.

1904, 409, sec. 6, as amended, 1907, 473, sec. 2. Such sums as the general court shall authorize may be expended annually by the state forester, with the approval of the governor and council, in carrying out the provisions of this act.

II.

Forest Wardens in Cities and Towns.

R. L. 32, sec. 16, as amended, 1907, 475, sec. 1. The mayor and aldermen in cities and the selectmen in towns shall annually, in March or April, appoint a forest warden, and they shall forthwith give notice of such appointment to the state forester. The appointment of a forest warden shall not take effect unless approved by the state forester, and when so approved notice of the appointment shall be given by the mayor and aldermen or by the selectmen to the person so appointed and approved. Whoever having been duly appointed fails within seven days after the receipt of such notice to file with the city or town clerk his acceptance or refusal of the office shall, unless excused by the mayor and aldermen or by the selectmen, forfeit ten dollars. Nothing in this act or in any other act shall be construed to prevent the offices of tree warden, selectman, chief of fire department and forest warden from being held by the same person.

1907, 475, sec. 2. The forest warden shall

take precautions to prevent the spread of forest fires and the improper kindling thereof, and shall have sole charge of their extinguishment. He shall investigate the causes and extent of forest fires and the injury done thereby, the values of forest lands, the character and extent of wood-cutting operations, the prevalence of insect pests injurious to forest growth, and other matters affecting the extent and condition of woodlands in his city or town, and shall report thereon to the state forester at such times and in such form as the state forester may require. He shall also post in suitable places in the city or town such warnings against the setting of forest fires and statements of the law relating thereto as may be supplied to him by the state forester. The engineers of fire departments in cities and in towns in which a fire department exists and which have so voted shall perform the duties and exercise the powers of forest wardens with respect to forest fires.

R. L. 32, sec. 20, as amended, 1907, 475, sec. 3. The forest warden may appoint deputies to assist him in the performance of his duties and may discharge the same,

and he or his deputies may, if in their judgment there is danger from a forest fire, employ assistance or require any male person in their city or town between the ages of eighteen and fifty years to aid in its extinguishment or prevention, and may require the use of horses, wagons and other property adapted to that purpose, and shall keep an account of the time of all persons assisting them and a schedule of all property so used.¹

1907, 475, sec. 4. The state forester shall from moneys annually appropriated for the expenses of his office recompense the forest wardens for the time spent by them in making investigations under his direction according to the provisions of section two of this act: *provided*, that the state forester shall not be liable to make any such payment except upon the presentation of a duly itemized account, or to pay for such investigations at a rate greater than that of thirty-five cents an hour, or in excess of the appropriation available for such payment.

1907, 475, sec. 5. The officials designated as "firewards" or "forest firewards," in

¹ See further under next division of this pamphlet.

chapter thirty-two of the Revised Laws shall hereafter be called Forest Wardens.

1907, 475, sec. 6. Forest wardens, their deputies and assistants shall not be liable for trespass while acting in the reasonable performance of their duties.¹

1907, 475, sec. 7. Whoever wilfully and maliciously tears down or destroys any notice posted under the provisions of section two of this act shall be punished by a fine of ten dollars.

1907, 475, sec. 8. The state forester may from moneys appropriated annually for the expenses of his office expend a sum not exceeding two thousand dollars in making necessary arrangements for conventions of forest wardens and in paying wholly or in part the travelling expenses to and from their towns of such forest wardens as attend this convention: *provided*, that no moneys shall be expended under authority of this section in paying the travelling expenses of any one warden to or from more than one convention in any one year; and *provided; further*, that said conventions shall be held at a place within the commonwealth.

¹ See also sections on pages 28 and 31.

1907, 475, sec. 9. Forest firewards appointed under section sixteen of chapter thirty-two of the Revised Laws and foresters appointed under section fourteen of chapter fifty-three of the Revised Laws before the passage of this act shall between the time of its passage and the expiration of their terms of office perform the duties and have the powers of a forest warden as herein provided.

1907, 475, sec. 10. Sections seventeen, eighteen and twenty-two of chapter thirty-two of the Revised Laws, and section fourteen of chapter fifty-three of the Revised Laws, and all acts and parts of acts inconsistent herewith are hereby repealed.

III.

Powers of Forest Wardens in Fighting Fires and to call for Assistance.

R. L. 32, sec. 19, as amended, 1907, 475, sec. 5. If a fire occurs in woodland, two or more of the forest wardens of the town, or of a town containing woodland which is endangered by such fire, who are present at a place in immediate danger of being burned over, may set back fires and take all neces-

sary precautions to prevent the spread of the fire.

R. L. 32, sec. 21. Whoever wilfully refuses or neglects, without sufficient cause, to assist, or to allow the use of his horses, wagons or other property as required by the preceding section, shall, for each offence, be punished by a fine of not less than five nor more than one hundred dollars, to be equally divided between the complainant and the town, and may also be imprisoned for not more than sixty days.

R. L. 32, sec. 23. Payment shall be made to forest wardens, to their deputies, and to the persons assisting them, and for property used under their direction at a forest fire, at a rate prescribed by the town, or in default of its action thereon, by the selectmen. No such payment shall be made until an itemized account, approved by the forest wardens under whose direction the work was done or assistance furnished, shall have been filed with the officer making payment.¹

R. L. 32, sec. 24. In a town which accepts the provisions of this section or has accepted the corresponding provisions of earlier laws,

¹ See also sec. 4 on page 18.

no fire shall be set in the open air between the first day of April and the first day of October, unless by the written permission of a forest warden. The forest warden shall cause public notice to be given of the provisions of this section, and shall enforce the same. Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars, to be divided equally between the complainant and the town, or by imprisonment for not more than one month, or by both such fine and imprisonment.

R. L. 32, sec. 25. Money appropriated by a town under the provisions of section seventeen of chapter twenty-five, for the prevention of forest fires, and all fines received under the provisions of sections twenty-one, twenty-two and twenty-four of this chapter and section nine of chapter two hundred and eight shall be expended by the forest warden, under the supervision of the selectmen, in trimming brush out of wood roads, in preparing and preserving suitable lines for back fires or in other ways adapted to prevent or check the spread of fire; or such town may expend any portion of such

money in taking in the name of the town such woodland as the selectmen, upon the recommendation of the forest warden, consider expedient for the purpose of preventing forest fires. Such taking and the payment of damages therefor or for injury to property, other than by fire or back fire, shall be governed by the laws relating to the taking of land for highways.¹

IV.

Fires in the Open Air.

1908, 209, sec. 1. In a town which accepts the provisions of this act or has accepted a corresponding provision of earlier laws no fires shall be set in the open air between the first day of April and the first day of December, except by the written permission of the forest warden: *provided*, that debris from fields, gardens and orchards, or leaves and brush from yards may be burned on ploughed fields by the owners thereof, their agents or lessees, but in every case such fire shall be at least two hundred feet distant from any forest or sprout lands, and shall be properly attended until it is extinguished.

¹ See also sec. 3 on page 16.

The forest warden shall cause public notice to be given of the provisions of this section, and shall enforce the same. Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than one month, or by both such fine and imprisonment.

1908, 209, sec. 2. The provisions of the preceding section shall not apply to fires which may be set in accordance with regulations and methods approved by the superintendent for suppressing the gypsy and brown-tail moths.

1908, 209, sec. 3. The state forester shall notify every town in the commonwealth of the passage of this act by sending at least three printed copies thereof to the town clerk, who shall post the same in conspicuous places.

1908, 209, sec. 4. The state forester and forest warden may arrest without a warrant any persons found in the act of setting a fire in violation of any provision of this act.

1908, 209, sec. 5. The selectmen of every town shall cause this act to be submitted to the voters for their acceptance at the next

annual meeting of the town after the passage of this act. The vote shall be taken by separate ballot, and shall be "Yes" or "No" in answer to the following question printed upon the ballot: "Shall an act passed by the general court in the year nineteen hundred and eight, entitled 'An Act to provide for the protection of forest or sprout lands from fire' be accepted by this town?" A majority vote of the legal voters present and voting at such meeting shall be required for the acceptance of this act; and upon such acceptance the provisions of section twenty-four of chapter thirty-two of the Revised Laws shall cease to apply to any town which has previously accepted that section.

FIRE BALLOONS.

1910, 141. It shall be unlawful within any city or town in this commonwealth for any person to liberate or fly fire balloons of any description. Whoever violates this act shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than one month or by both such fine and imprisonment.

CLOSE SEASON FOR GAME IN TIMES OF
DROUTH.

1909, 422, sec. 1. Whenever, during an open season for the hunting of any kind of game in this state, it shall appear to the governor that by reason of extreme drouth the use of firearms in the forest is liable to cause forest fires, he may, by proclamation, suspend the open season and make it a close season for the shooting of birds and wild animals of every kind for such time as he may designate, and may prohibit the discharge of firearms in or near forest land during the said time.

1909, 422, sec. 2. During the time designated as above by the governor, all provisions of law relating to the close season shall be in force, and whoever violates any such provisions shall be subject to the penalties prescribed therefor. In case any person shall, during a close season proclaimed as aforesaid, discharge a firearm in or near forest land, or shoot any wild animal or bird, as to which there is no close season otherwise provided by law, he shall be subject to a fine of not more than one hundred dollars.

1909, 422, sec. 3. A proclamation issued under authority hereof shall be published in such newspapers of the state and posted in such places and in such manner as the governor may direct, under the charge and direction of the state forester and the commissioners on fisheries and game.

V.

Exemplary Damages for injuring Timber and Special Liability of Railroads.

R. L. 185, sec. 7. A person who without license wilfully cuts down, carries away, girdles or otherwise destroys any trees, timber, wood or underwood on the land of another shall be liable to the owner in an action of tort for three times the amount of damages assessed therefor; but if it is found that the defendant had good reason to believe that the land on which the trespass was committed was his own or that he was otherwise lawfully authorized to do the acts complained of, he shall be liable for single damages only.¹

¹ Other sections of R. L. 185 provide exemplary damages for certain acts of waste and trespass, but have no special reference to forest lands.

R. L. 111, sec. 270. Every railroad corporation and street railway company shall be liable in damages to a person or corporation whose buildings or other property may be injured by fire communicated by its locomotive engines, and shall have an insurable interest in the property upon its route for which it may be so held liable, and may procure insurance thereon in its own behalf. If it is held liable in damages, it shall be entitled to the benefit of any insurance effected upon such property by the owner thereof, less the cost of premium and expense of recovery. The money received as insurance shall be deducted from the damages, if recovered before they are assessed; and if not so recovered, the policy of insurance shall be assigned to the corporation which is held liable in damages, and it may maintain an action thereon.

VI.

Land adjoining Railroads, and Powers and Duties of Railroads.

1907, 431, sec. 1. Every corporation operating a steam railroad within this commonwealth shall, subject to the approval of

the board of railroad commissioners, install and maintain a sparkarrester on every engine in its service in which wood, coke or coal is used as fuel, and shall, between the first day of April and the first day of December in each year, keep the full width of all of its locations over which such engines are operated, to a point two hundred feet distant from the centre line on each side thereof, clear of dead leaves, dead grass, dry bush or other inflammable material, and shall not at any time leave any deposit of fire, hot ashes or live coals upon its locations in the immediate vicinity of woodlands or grass lands, and shall post in stations and other conspicuous places within its location and right of way such notices and warning placards as are furnished to it for the purpose by the state forester: *provided*, that nothing in this section shall be construed to prohibit any railroad corporation from piling or keeping upon its location or right of way crossties or other material necessary for the maintenance and operation of its railroad.

1907, 431, sec. 2. Any railroad corporation may, upon giving notice according to

the provisions of this section, enter upon unimproved land adjoining any location or right of way upon which it operates engines burning wood, coke or coal, and may there at its own expense and subject to the direction of the forest warden, or the officer or board having his powers, in the city or town in which the land is situated, clear such land of dead leaves, dead grass and dead wood to a distance of one hundred feet from the tracks, without thereby becoming liable for trespass: *provided*, that no railroad corporation shall, under the provisions of this section, do any acts on unimproved land outside its location or right of way, unless it has within two months given fourteen days' notice in writing by mail or otherwise to the occupant of the land, and to the owner thereof, if he resides or has a usual place of business in the city or town in which it is situated, and if the land is unoccupied and the owner does not reside or have a usual place of business in the city or town, then, unless the railroad corporation has within two months published notice of its purpose once in three successive weeks in a newspaper published in the county in which the

land is situated, and unless it has within three days given at least twenty-four hours' notice to the forest warden [or the officer or board having his powers],¹ in the city or town in which the land is situated of the location of the land which it intends to enter under the provisions of this section, and of the time at which it intends to enter the same; and *provided, further*, that no notice hereby required shall be valid unless it sets forth the provisions of this section.

1907, 431, sec. 3. Any engineer, conductor or other employee on a train who discovers a fire burning uncontrolled on lands adjacent to the tracks shall forthwith cause a fire signal to be sounded from the engine, which shall consist of one long and three short whistle blasts repeated several times, and shall notify the next sectionmen whom the train passes, and the next telegraph station, of the existence and location of the fire. The provisions of this section shall not affect the authority conferred upon the board of railroad commissioners by the

¹ Since the passage of chap. 475, Acts of 1907, the forest warden would be the officer designated by the bracketed words.

provisions of section one hundred and forty-eight of Part II of chapter four hundred and sixty-three of the acts of the year nineteen hundred and six.

1907, 431, sec. 4. Sectionmen or other employees of a railroad corporation who receive notice of the existence and location of a fire burning on land adjacent to the tracks shall forthwith proceed to the fire and shall use all reasonable efforts to extinguish it: *provided*, that they are not at the time employed in labors immediately necessary to the safety of tracks or to the safety and convenience of passengers and the public.

1907, 431, sec. 5. Railroad corporations shall inform their employees as to their duties under this act and shall furnish them with the appropriate facilities for reporting and extinguishing such fires.

1907, 431, sec. 6. Nothing in this act shall be construed to give any railroad corporation power to enter upon, or to interfere in the management or care of, any public park or reservation.

RAILROAD LIABILITY FOR THE EXTINGUISHMENT OF FOREST FIRES.

1909, 394, sec. 1. Any railroad corporation which, by its servants or agents, negligently, or in violation of law, sets fire to grass lands or forest lands shall be liable to any city or town in which such fire occurs, for the reasonable and lawful expense incurred by such city or town in the extinguishment of the fire.

1909, 394, sec. 2. Cities and towns may recover sums to which they are entitled under the provisions of this act by an action of contract in the superior court.

VII.

Town Appropriations and Public Domains.

R. L. 25, sec. 17. A town which accepts the provisions of this section, or has accepted the corresponding provisions of earlier laws, may appropriate money for the prevention of forest fires to an amount not exceeding one-tenth of one per cent of its valuation.¹

R. L. 28, sec. 23. A town, by a vote of

¹ See also sec. 25 on page 21.

two-thirds of the legal voters present and voting at a town meeting, or a city in which the city council consists of two branches, by a vote of two-thirds of the members of each branch, and a city in which there is a single legislative board, by a vote of two-thirds of the members thereof, present and voting thereon, may take or purchase land within their limits, which shall be a public domain, and may appropriate money and accept gifts of money and land therefor. Such public domain shall be devoted to the culture of forest trees, or to the preservation of the water supply of such city or town and the title thereto shall vest in the commonwealth for the benefit of the city or town in which it lies.

R. L. 28, sec. 24. A description of the land taken sufficiently accurate for its identification, shall within sixty days after such taking, be filed by such city or town in the registry of deeds for the county or district in which the land is situated and shall be recorded therein. Damages occasioned by such taking may be recovered as provided in the case of the taking of land for a highway.

R. L. 28, sec. 25. The state board of agriculture shall [act as a board of forestry, without pay, except for necessary travelling expenses, and shall]¹ have the supervision and management of all such public domains. It shall make regulations for their care and use, and for the planting and cultivating of trees therein, and shall appoint one or more keepers, who, under its direction, shall have charge of each public domain, enforce its regulations, perform such labor thereon as it requires; and who shall, within such public domain, have the power of constables and public officers in towns.

REIMBURSE CERTAIN TOWNS FOR FIRE APPARATUS.

1910, 398, sec. 1. Every town in the commonwealth with a valuation of one million five hundred thousand dollars or less which appropriates and expends money, with the approval of the state forester, for apparatus to be used in preventing or extinguishing

¹ The words bracketed would appear to be superseded by the law establishing the office of State Forester. For further provisions as to establishment and management of domains see other sections of the act.

forest fires or for making protective belts or zones as a defence against forest fires, shall be entitled, upon the recommendation of the state forester, approved by the governor, to receive from the treasury of the commonwealth a sum equal to one half of the said expenditure, but no town shall receive more than two hundred and fifty dollars.

1910, 398, sec. 2. A sum not exceeding five thousand dollars in any one year may be expended in carrying out the provisions of this act.

1910, 398, sec. 3. This act shall take effect upon its passage.

PICKING BERRIES AND FLOWERS AND CAMPING AND PICNICKING DURING CERTAIN MONTHS IN THE COUNTIES OF BARNSTABLE AND PLYMOUTH.

1910, 478, sec. 1. It shall be unlawful for any unnaturalized, foreign-born person to pick wild berries or flowers, or to camp or picnic upon any land of which he is not the owner, within the counties of Barnstable and Plymouth, between the first day of April and the first day of December, without first

obtaining written permission so to do from the owner or owners of the land. The said written permit shall not be transferable, and shall be exhibited upon demand to the forest warden, or his deputies, of the town wherein the land is located, or upon demand of any sheriff, constable, police officer or other officer authorized to arrest for crime. Failure or refusal to produce said permit upon such demand shall be prima facie evidence of a violation of this act, and any forest warden or any duly authorized deputy forest warden, police officer, sheriff or other officer authorized to arrest for crime, may arrest without warrant any person who fails or refuses to display for inspection the said permit upon the demand of any of the officials named in this act.

1910, 478, sec. 2. Whoever violates any provision of this act shall be punished by a fine of not more than fifty dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

VIII.

Reforestation Act.

1908, 478, as amended, 1909, 214, sec. 1. For the purpose of experiment and illustration in forest management and for the purposes specified in section seven of this act, the sum of five thousand dollars may be expended in the year nineteen hundred and eight, and the sum of ten thousand dollars annually thereafter, by the state forester, with the advice and consent of the governor and council, in purchasing lands situated within the commonwealth and adapted to forest production. The price of such land shall not exceed in any instance five dollars per acre, nor shall more than eighty acres be acquired in any one tract in any one year, except that a greater area may so be acquired if the land purchased directly affects a source or tributary of water supply in any city or town of the commonwealth. All lands acquired under the provisions of this act shall be conveyed to the commonwealth, and no lands shall be paid for nor shall any moneys be expended in improvements thereon until all instruments of conveyance and the

title to be transferred thereby have been approved by the attorney-general and until such instruments have been executed and recorded.

1908, 478, sec. 2. The owners of land purchased under this act, or their heirs and assigns, may repurchase the land from the commonwealth at any time within ten years after the purchase by the commonwealth, upon paying the price originally paid by the commonwealth, together with the amount expended in improvements and maintenance, with interest at the rate of four per cent per annum on the purchase price. The state forester, with the approval of the governor and council, may execute in behalf of the commonwealth such deeds of reconveyance as may be necessary under this section: *provided, however*, that there shall be included in such deeds a restriction requiring that trees cut from such property shall not be less than eight inches in diameter at the butt.

1908, 478, sec. 3. The state forester may in his discretion, but subject to the approval of the deed and title by the attorney-general as provided in section one, accept on behalf of the commonwealth gifts of land to be held

and managed for the purpose hereinbefore expressed. A donor of such land may reserve the right to buy back the land in accordance with the provisions of section two, but in the absence of a provision to that effect in his deed of gift he shall not have such right.

1908, 478, sec. 4. Land acquired under the provisions of this act shall be under the control and management of the state forester, who may, subject to the approval of the governor and council, cut and sell trees, wood and other produce therefrom.

1908, 478, sec. 5. All moneys received by or payable to the commonwealth or any one acting on its behalf under the provisions of this act shall be paid into the treasury of the commonwealth.

1908, 478, sec. 6. Land acquired under the provisions of this act and subsequently reconveyed under the provisions of sections two or three shall not be exempt from taxation on account of any plantation of trees set out or planted while it was held by the commonwealth.

1908, 478, sec. 7. For the purpose of assisting in reforestation a portion, not ex-

ceeding twenty per cent of the money authorized by this act to be expended may be used by the state forester for the distribution at not less than cost of seeds and seedlings to land owners who are citizens of the commonwealth, under such conditions and restrictions as the state forester, subject to the approval of the governor and council, may deem advisable.

1908, 478, sec. 8. The state forester shall replant or otherwise manage all land acquired by the commonwealth and held by it under the provisions of this act, in such manner as will, in his judgment, produce the best forest growth both as to practical forestry results and protection of water supplies.

1908, 478, sec. 9. All acts and parts of acts inconsistent herewith are hereby repealed.

1908, 478, sec. 10. This act shall take effect upon its passage.

STATE FORESTER MAY ACCEPT BEQUESTS.

1910, 153, sec. 1. The state forester, with the approval of the governor and council, is hereby authorized to accept, on behalf of

the commonwealth, bequests or gifts to be used for the purpose of advancing the forestry interests of the commonwealth, under the direction of the governor and council, in such manner as to carry out the terms of the bequest or gift.

1910, 153, sec. 2. This act shall take effect upon its passage.

CERTAIN LANDS EXEMPT FROM TAXATION.

1909, 187, sec. 1. Land which does not exceed in value ten dollars an acre, if well stocked with thrifty white pine seedlings that have attained an average height of not less than fifteen inches, upon satisfactory proof of its condition by the owner to the assessors, shall be exempt from taxation for a period of ten years thereafter: *provided*, that if any trees of commercial value, except such as are reasonably removed for the improvement of the white pine growth, are cut or removed from the said land, the exemption herein provided for shall cease.

PLANTATIONS EXEMPT FROM TAXATION.

R. L. 12, sec. 6, as amended, 1908, 120. Land upon which pines, chestnuts, larches,

spruces, hemlocks, walnuts, hickories, American and large-toothed poplars, yellow and paper birches, beeches, maples, basswoods, or ash timber trees, or others when approved by the state forester, have been set out or planted to the number of not less than six hundred per acre, and which by such setting out or planting has become evenly stocked with such trees to the number of not less than twelve hundred per acre, including in such number the trees growing naturally upon said land, shall be exempt from taxation for a period of ten years after the said trees have grown in height two feet on the average, upon satisfactory proof by the owners to the assessors of the foregoing facts: *provided*, that at the time when the trees are planted or set out the said land is not woodland or sproutland, or land containing more than six hundred standing trees to the acre, and does not exceed in value ten dollars per acre; and *provided, further*, that such exemption shall not extend beyond the time during which said land is devoted exclusively to the growth of said trees.

IX.

Punishable Offences against Forest Lands.

R. L. 208, sec. 5. Whoever wilfully and maliciously burns or otherwise destroys or injures a pile or parcel of wood, boards, timber or other lumber, or any fence, bars or gate, or a stack of grain, hay or other vegetable product, or any vegetable product severed from the soil and not stacked, or any standing tree, grain, grass or other standing product of the soil, or the soil itself, of another, shall be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than five hundred dollars and imprisonment in jail for not more than one year.

R. L. 208, sec. 7. Whoever by wantonly or recklessly setting fire to any material causes injury to, or the destruction of, any growing or standing wood of another shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months.

R. L. 208, sec. 8. Whoever wilfully or without reasonable care sets fire upon land of another whereby the property of another

is injured, or whoever negligently or wilfully suffers any fire upon his own land to extend beyond the limits thereof, whereby the woods or property of another are injured, shall be punished by a fine of not more than two hundred and fifty dollars.

R. L. 208, sec. 9. Whoever in a town which accepts the provisions of this section, or has accepted the corresponding provisions of earlier laws, sets a fire on land which is not owned or controlled by him and before leaving the same neglects to entirely extinguish such fire, or whoever wilfully or negligently suffers a fire upon his own land to escape beyond the limits thereof to the injury of another, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in jail for not more than one month, or by both such fine and imprisonment; and shall also be liable for all damages caused thereby. Such fine shall be equally divided between the complainant and the town.

R. L. 208, sec. 99, as amended, 1904, 444, sec. 1. Whoever wilfully cuts down or destroys timber or wood standing or growing on the land of another, or carries away any

kind of timber or wood cut down or lying on such land, or digs up or carries away stone, ore, gravel, clay, sand, turf or mould from such land, or roots, nuts, berries, grapes or fruit of any kind or any plant there being, or cuts down or carries away sedge, grass, hay or any kind of corn, standing, growing or being on such land, or cuts or takes therefrom any ferns, flowers or shrubs, or carries away from a wharf or landing place any goods in which he has no interest or property, without the license of the owner thereof, shall be punished by imprisonment for not more than six months or by a fine of not more than five hundred dollars, and if the offence is committed on the Lord's day or in disguise or secretly in the night time the imprisonment shall not be less than five days nor the fine less than five dollars.

R. L. 208, sec. 100. Whoever wilfully and maliciously cuts down, destroys or injures a tree which is not his own, standing for any useful purpose, or whoever wilfully and maliciously breaks glass in a building which is not his own, or whoever wilfully and maliciously breaks down, injures, mars

or defaces a fence belonging to or enclosing land which is not his own, or wilfully and maliciously throws down or opens a gate, bars or fence, and leaves the same down or open, or maliciously and injuriously severs from the freehold of another any produce thereof or anything attached thereto, shall be punished by imprisonment for not more than six months or by a fine of not more than five hundred dollars.

R. L. 208, sec. 106. Whoever wilfully and maliciously, and without permission of the owner or person having control thereof, enters upon the orchard, garden or other improved land¹ of another, with intent to cut, take, carry away, destroy or injure the trees, grain, grass, hay, fruit or vegetables there growing or being, shall be punished by imprisonment for not more than six months or by a fine of not more than five hundred dollars; and if the offence is committed on the Lord's day or in disguise or secretly in the night time the imprisonment shall not be less than five days nor the fine less than five dollars.

¹ It is believed that artificial plantations of forest trees are within the meaning of this section.

R. L. 208, sec. 121. Whoever is discovered in the act of wilfully injuring a fruit or forest tree or of committing any kind of malicious mischief on the Lord's day may be arrested without a warrant by a sheriff, deputy sheriff, constable, watchman, police officer or other person, and detained in jail or otherwise until a complaint can be made against him for the offence and he be taken upon a warrant issued upon such complaint; but such detention without warrant shall not continue more than twenty-four hours.

1907, 299. The commissioners on fisheries and game and their duly authorized deputies may arrest without a warrant any person found in the act of unlawfully setting a fire. Said commissioners and their deputies may require assistance according to the provisions of section twenty of chapter thirty-two of the Revised Laws, and they shall take precautions to prevent the progress of forest fires, or the improper kindling thereof, and upon the discovery of any such fire shall immediately summon the necessary assistance, and notify the forest fireward of the town.

X.

Forestry Publications.

1908, 121. *Resolved*, That such publications of the state forester as shall be designated by the governor and council may be sold by the state forester at a price not less than the cost thereof; and additional copies may be printed for sale at the discretion of the governor and council, the expense thereof to be paid from the receipts from such sales. Any amounts received from such sales shall be paid into the treasury of the commonwealth.

XI.

Gypsy and Brown Tail Moth Law.

ACTS OF 1905, CHAPTER 381, AS AMENDED BY ACTS OF 1906, CHAPTER 268, ACTS OF 1907, CHAPTER 521, ACTS OF 1908, CHAPTER 591, AND ACTS OF 1910, CHAPTER 150.

AN ACT TO PROVIDE FOR SUPPRESSING THE
GYPSY AND BROWN TAIL MOTHS.

Be it enacted, etc., as follows:

SECTION 1. For the purposes of this act the pupæ, nests, eggs and caterpillars of the gypsy and brown tail moths and said moths

are hereby declared public nuisances, and their suppression is authorized and required; but no owner or occupant of an estate infested by such nuisance shall by reason thereof be liable to an action, civil or criminal, except to the extent and in the manner and form herein set forth.

SECTION 2.¹ The governor, by and with the consent of the council, shall appoint a superintendent for suppressing the gypsy and brown tail moths and shall determine his salary. The governor may, with the consent of the council, remove said superintendent at any time for such cause as he shall deem sufficient. In case of the death, removal or resignation of the superintendent the governor shall forthwith appoint a successor. On or before the third Wednesday in January in each year the superintendent shall make a report of his proceedings to the general court, which shall be a public document and shall be printed. Said report shall separate so far as is practicable the

¹ The office of superintendent was abolished by chapter 263, Acts of 1909, and the State Forester placed in charge of the work of suppressing the gypsy and brown tail moths. See chapter 263, Acts of 1909, printed on page 64.

expenditures on work against the gypsy moth from those on work against the brown tail moth in each city and town.

SECTION 3. [As amended by section 1, chapter 268, Acts of 1906, and by section 1, chapter 591, Acts of 1908.] The said superintendent shall act for the commonwealth in suppressing said moths as public nuisances, in accordance with the provisions of this act. For this purpose he shall establish an office and keep a record of his doings and of his receipts and expenditures, and may, subject to the approval of the governor, make rules and regulations governing all operations by cities, towns or individuals under this act. He may employ such clerks, assistants and agents, including expert advisers and inspectors, as he may deem necessary and as shall be approved by the governor. He may make contracts on behalf of the commonwealth; may act in co-operation with any person, persons, corporation or corporations, including other states, the United States or foreign governments; may conduct investigations and accumulate and distribute information concerning said moths; may devise, use and require all other lawful

means of suppressing or preventing said moths; may lease real estate when he deems it necessary, and, with the approval of the board in charge, may use any real or personal property of the commonwealth; may at all times enter upon the land of the commonwealth or of a municipality, corporation, or other owner or owners, and may use all reasonable means in carrying out the purposes of this act; and, in the undertakings aforesaid, may, in accordance with the provisions of this act, expend the funds appropriated or donated therefor; but no expenditure shall be made or liability incurred in excess of such appropriations and donations.

The clerks, assistants and agents employed by said superintendent may at all times, in carrying out the purposes of this act, enter upon the land of the commonwealth or of a municipality, corporation or other owner or owners.

SECTION 4. [As amended by section 2, chapter 268, Acts of 1906; by section 1, chapter 521, Acts of 1907; and by section 1, chapter 150, Acts of 1910.] The mayor and aldermen in cities and the selectmen in

towns shall annually in the month of March or April appoint a local superintendent for the suppression of the gypsy and brown tail moths who shall under the advice and general direction of the state forester destroy the eggs, caterpillars, pupæ and nests of the gypsy and brown tail moths within their limits, except in parks and other property under the control of the commonwealth, and except in private property, save as otherwise provided herein. The said appointments of local superintendents shall not take effect unless approved by the state forester, and when so approved, notice of the appointment shall be given by the mayor and aldermen or selectmen to the person so appointed. When any city or town shall have expended within its limits city or town funds to an amount in excess of five thousand dollars in any one fiscal year, in suppressing gypsy or brown tail moths, the commonwealth shall reimburse such city or town to the extent of fifty per cent of such excess above said five thousand dollars.

Cities or towns, where one twenty-fifth of one per cent of the assessed valuation of real and personal property is less than five thou-

sand dollars, and where the assessed valuation of real and personal property is greater than six million dollars, shall be reimbursed by the commonwealth to the extent of eighty per cent of the amount expended by such cities or towns of city or town funds in suppressing the gypsy and brown tail moths in any one fiscal year, in excess of said one twenty-fifth of one per cent.

In the case of towns where the assessed valuation of real and personal property is less than six million dollars, after they have expended in any one fiscal year town funds to an amount equal to one twenty-fifth of one per cent of their assessed valuation of real and personal property, the commonwealth shall expend within the limits of such towns, for the purpose of suppressing the gypsy and brown tail moths, such an amount in addition as the superintendent with the advice and consent of the governor shall recommend.

The commonwealth shall reimburse cities and towns every sixty days according to the provisions of this act.

No city or town shall be entitled to any reimbursement from the commonwealth until

it has submitted to the auditor of the commonwealth itemized accounts and vouchers showing the definite amount expended by it for the purpose of this act; nor shall any money be paid out of the treasury of the commonwealth to cities or towns, pursuant to the provisions of this act, until said vouchers and accounts have been approved by the superintendent and the auditor of the commonwealth.

For the purposes of this section, the valuation of the previous year shall be taken as a basis. The fiscal year for nineteen hundred and seven and for all succeeding years shall close on the thirtieth day of November.

SECTION 5. [As amended by section 3, chapter 268, Acts of 1906, and by section 2, chapter 521, Acts of 1907.] When, in the opinion of the superintendent, any city or town is not expending a sufficient amount for the abatement of said nuisance, or is not conducting the necessary work in a proper manner, then the superintendent shall, with the advice and consent of the governor, order such city or town to expend such an amount as the superintendent shall deem necessary, and in accordance with such

methods as the superintendent, with the consent of the governor, shall prescribe: *provided*, that no city or town where the assessed valuation of real and personal property exceeds six million dollars shall be required to expend, exclusive of any reimbursement received from the commonwealth, during any one full year more than one fifteenth of one per cent of such valuation, and that no town where the assessed valuation of real and personal property is less than six million dollars shall be required to expend, exclusive of any reimbursement received from the commonwealth, during any one full year more than one twenty-fifth of one per cent of such valuation. For the purposes of this section the valuation of each previous year shall be used.

Any city or town failing to comply with the directions of the said superintendent in the performance of said work within the date specified by him shall pay a fine of one hundred dollars a day for failure so to do; said fine to be collected by information brought by the attorney-general in the supreme judicial court for Suffolk county.

In case of emergency, or where there is

great or immediate danger of the increase or spread of the moths due to the neglect of any city or town to comply with the terms of this act, the superintendent, with the consent of the governor, may initiate or continue the work of suppressing the moths within the limits of such city or town for such a period as the superintendent may deem necessary. The cost of such work, including that done on private estates, less any sum due from the state by way of reimbursements on account of said work, shall be certified by the superintendent to the treasurer of the commonwealth, and be collected by him as an additional state tax upon the city or town so failing to comply with the requirements of the law. The superintendent may also in case of emergency, subject to the approval of the governor, carry on wholly or in part such operations as may be necessary to check the spreading of the gypsy or brown tail moths in parks not under the control of the commonwealth, and in cemeteries, woodlands and other places of public resort. The amount to be so expended in any one year shall not exceed ten per cent of the appropriations made for the

year by the state for the purpose of suppressing said moths.

SECTION 6. [As amended by section 4, chapter 268, Acts of 1906, and by section 2, chapter 591, Acts of 1908.] The mayor of every city and the selectmen of every town shall, on or before the first day of November in each year, and at such other times as he or they shall see fit, or as the state superintendent may order, cause a notice to be sent to the owner or owners, so far as can be ascertained, of every parcel of land therein which is infested with said moths; or, if such notification appears to be impracticable, then by posting such notice on said parcels of land, requiring that the eggs, caterpillars, pupæ and nests of said moths shall be destroyed within a time specified in the notice.

When, in the opinion of the mayor or selectmen, the cost of destroying such eggs, caterpillars, pupæ and nests on lands contiguous and held under one ownership in a city or town shall exceed one half of one per cent of the assessed value of said lands, then a part of said premises on which said eggs, caterpillars, pupæ or nests shall be de-

stroyed may be designated in such notice, and such requirement shall not apply to the remainder of said premises. The mayor or selectmen may designate the manner in which such work shall be done, but all work done under this section shall be subject to the approval of the state superintendent.

If the owner or owners shall fail to destroy such eggs, caterpillars, pupæ or nests in accordance with the requirements of the said notice, then the city or town, acting by the public officer or board of such city or town designated or appointed as aforesaid, shall, subject to the approval of the said superintendent, destroy the same, and the amount actually expended thereon, not exceeding one half of one per cent of the assessed valuation of said lands, as heretofore specified in this section, shall be assessed upon the said lands; and such an amount in addition as shall be required shall be apportioned between the city or town and the commonwealth in accordance with the provisions of section four of this act. The amounts to be assessed upon private estates as herein provided shall be assessed and collected, and shall be a lien on said estates,

in the same manner and with the same effect as is provided in the case of assessments for street watering.

The public officer or board of any city or town designated or appointed as aforesaid, or any agent or employee of such public officer or board, may at any time enter upon any parcel of land within the limits of such city or town for the purpose of determining whether or not such parcel of land is infested with said moths, or the extent to which such parcel of land is so infested.

SECTION 7. [As amended by section 5, chapter 268, Acts of 1906, and by section 3, chapter 521, Acts of 1907.] If, in the opinion of the assessors of a city or town, any land therein has received, by reason of the abatement of said nuisances thereon by said superintendent or by said city or town, a special benefit beyond the general advantage to all land in the city or town, then the said assessors shall determine the value of such special benefit and shall assess the amount thereof upon said land: *provided*, that no such assessment on lands contiguous and held under one ownership shall exceed one half of one per cent of the assessed

valuation of said lands; and *provided*, that the owner or owners shall have deducted from such assessment the amount paid and expended by them during the twelve months last preceding the date of such assessment toward abating the said nuisances on said lands, if, in the opinion of the assessors, such amount has been expended in good faith. Such assessment shall be a lien upon the land for three years from the first day of January next after the assessment has been made, and shall be collected under a warrant of the assessors to the collector of taxes of such city or town, in the manner and upon the terms and conditions and in the exercise of the powers and duties, so far as they may be applicable, prescribed by chapter thirteen of the Revised Laws relative to the collection of taxes.

Real estate sold hereunder may be redeemed within the time, in the manner, and under the provisions of law, so far as they may be applicable, set forth in chapter thirteen of the Revised Laws for the redemption of land sold for taxes.

A person aggrieved by such assessment may appeal to the superior court for the

county in which the land lies, by entering a complaint in said court within thirty days after he has had actual notice of the assessment, which complaint shall be determined as other causes by the court without a jury. The complaint shall be heard at the first sitting of said court for trials without a jury after its entry; but the court may allow further time, or may advance the case for speedy trial, or may appoint an auditor as in other cases. The court may revise the assessment, may allow the recovery back of an amount wrongfully assessed which has been paid, may set aside, in a suit begun within three years from the date thereof, a collector's sale made under an erroneous assessment, may award costs to either party and may render such judgment as justice and equity require.

If, in the opinion of the assessors, the owner of an estate upon which an assessment as aforesaid has been made is, by reason of age, infirmity or poverty unable to pay the assessment, they may upon application abate the same. Every city or town in rendering an account to the state auditor as provided for in section four of this act

shall deduct from such amount as it has expended the total amount it has assessed for work performed under section six of this act during the term covered by the account: *provided*, such work was performed under such conditions as require reimbursement in whole or in part by the state.

SECTION 8. To meet the expenses incurred under authority of this act, there shall be allowed and paid out of the treasury of the commonwealth, during the period up to and including May first, nineteen hundred and seven, the sum of three hundred thousand dollars. Of this amount seventy-five thousand dollars may be expended during the calendar year nineteen hundred and five; one hundred and fifty thousand dollars, and any unexpended balance of the previous year, may be expended during the calendar year nineteen hundred and six; and seventy-five thousand dollars, and any unexpended balance of the previous years, may be expended during the calendar year nineteen hundred and seven, up to and including May first.

SECTION 9. An additional sum of ten

thousand dollars in each of the years nineteen hundred and five, nineteen hundred and six and nineteen hundred and seven may, in the discretion of the state superintendent, be expended by him for experimenting with parasites or natural enemies for destroying said moths, and any unexpended balance of any year may be expended in the subsequent years.

SECTION 10. Chapter two hundred and ten of the acts of the year eighteen hundred and ninety-one and sections one and two of chapter five hundred and forty-four of the acts of the year eighteen hundred and ninety-eight and section two of chapter fifty-seven of the acts of the year nineteen hundred and two, are hereby repealed.

SECTION 11. [As amended by section 6, chapter 268, Acts of 1906.] A person who wilfully resists or obstructs the superintendent or an official of a city or town, or a servant or agent duly employed by said superintendent or by any of said officials, while lawfully engaged in the execution of the purposes of this act, or who knowingly fails to comply with any of the rules or

regulations issued by said superintendent, shall forfeit a sum not exceeding twenty-five dollars for each offence.

SECTION 12. [As amended by section 4, chapter 521, Acts of 1907.] Valuations of real and personal property of each previous year shall govern the provisions of this act.

SECTION 13. This act shall take effect upon its passage.

ACTS OF 1909, CHAPTER 263.

AN ACT TO PROVIDE FOR CONSOLIDATING THE OFFICE OF SUPERINTENDENT FOR SUPPRESSING THE GYPSY AND BROWN TAIL MOTHS AND THE DEPARTMENT OF THE STATE FORESTER.

Be it enacted, etc., as follows:

SECTION 1. Section one of chapter four hundred and nine of the acts of the year nineteen hundred and four, as amended by section one of chapter four hundred and seventy-three of the acts of the year nineteen hundred and seven, is hereby further amended by striking out the said section and inserting in place thereof the following:—

Section 1. The governor, with the consent

of the council, shall appoint an officer to be known as the state forester, and shall determine his salary. He shall be a trained forester who has had a technical education. He shall be ex officio a member of the state board of agriculture. He shall act for the commonwealth in suppressing the gypsy and brown tail moths as public nuisances. The governor may, with the consent of the council, remove the state forester at any time for such cause as he shall deem sufficient. In case of the death, removal or resignation of the state forester the governor shall forthwith appoint a successor.

SECTION 2. The office of superintendent for suppressing the gypsy and brown tail moths is hereby abolished. All the powers, rights, duties and liabilities of the said superintendent are hereby transferred to the state forester. No existing contracts, proceedings or liabilities shall be affected hereby, but the state forester shall in all respects and for all purposes be the lawful successor of the superintendent for suppressing the gypsy and brown tail moths.

SECTION 3. This act shall take effect upon its passage.

ACTS OF 1909, CHAPTER 452.

AN ACT TO PROVIDE FOR THE SUPPRESSION
OF THE GYPSY AND BROWN TAIL MOTHS.

Be it enacted, etc., as follows:

SECTION 1. The state forester is hereby authorized to expend for the suppression of the gypsy and brown tail moths, and for expenses incidental thereto, the sum of one hundred and fifty thousand dollars annually for three years, beginning with the year nineteen hundred and ten; and if any part of the said one hundred and fifty thousand dollars remains unexpended at the close of any year the balance may be expended in the following year.

SECTION 2. This act shall take effect upon its passage.

TRANSPORTATION OF INJURIOUS INSECTS.

R. L. 208, sec. 108. Whoever knowingly brings the insects which are known as the oeneria dispar or gypsy moth or as the brown tail moth, or their nests or eggs, into this commonwealth, or whoever knowingly transports said insects or their eggs or nests

from one city or town to another city or town in the commonwealth, except when engaged in, and for the purpose of, destroying them, shall be punished by a fine of not more than two hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

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